



UNITED STATES PATENT AND TRADEMARK OFFICE

N.K.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,396	01/10/2002	Angela M. Petroskey	AMP 0101 PUS	4654

7590 03/12/2003
Artz & Artz, P.C.
Ste. 250
28333 Telegraph Road
Southfield, MI 48304

EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
----------	--------------

3711

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,396

Applicant(s)

PETROSKEY, ANGELA M.

Examiner

Mitra Aryanpour

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3711

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lessard (D360,920).

Lessard discloses a training device comprising a front layer, a rear layer and an insert portion disposed between the front and rear layer, and a hand-receiving portion to allow receipt of a user's hand (see figure 4).

IN ADDITION:

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Spector (5,027,439).

Spector discloses a training device having a front layer (10) intended to contact a hit ball; a rear layer (11); an insert portion (18) disposed between and secured to each of the front layer and rear layer; and a hand receiving portion to allow receipt of a user's hand therein (see figures 2 and 5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3711

5. Claims 2-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (5,027,439).

Regarding claim 2, Spector shows the training device is an athletic glove for catching and whacking a ball. Spector teaches that the athletic glove can be used with various size balls, and it can be used as a paddle or bat, but Spector is silent as to the type of sports it can be used in. It would have been obvious to utilize the athletic glove of Spector in a volleyball game, especially since Spector in its Background of the Invention refers to various prior art gloves and mitts used in various sports including volleyball.

Regarding claim 3, Spector further shows the insert 18 is made of a synthetic plastic material (see column 3, lines 19-22).

Regarding claim 4, Spector as disclosed above shows the front and rear portions of the athletic glove having a laminated fabric (23 and 24) attached thereto. The laminated fabric is a thin plastic. However, Spector does not expressly indicate the use of foam for these layers. Foam rubber is a derivative of plastic (see figure 7) and considered an obvious substitute laminate.

Regarding claim 5, Spector shows the rear layer having an additional foam layer (22), which is thicker than the front layer.

Regarding claim 6, Spector shows the insert portion (18) provides some flexibility, but has a degree of stiffness for receiving a ball (see column 3, lines 19-26).

Regarding claim 7, Spector as disclosed above does not expressly disclose the means of securing the various layers together. Official Notice is taken that it is old and conventional to use glue to secure the various layers together and it would have been obvious to do so for the athletic glove of Spector, in order to keep the layers securely in place.

Art Unit: 3711

Regarding claims 8 and 9, Spector further shows the inner layers are covered by an outer fabric material (10 and 11; see column 2, lines 62-65).

Regarding claim 10, Spector further shows the hand-receiving portion is configured in the shape of a glove (see figure 1).

Regarding claim 11, Spector shows a foam portion (22); a relatively stiff portion (18) disposed in the foam portion; an outer covering (covers 10 and 11) encapsulating the foam portion; and a hand receiving portion secured to the outer covering (the outer covering is the hand receiving covering).

Regarding claim 12, see comments for claim 4.

Regarding claim 13, see comments for claim 6.

Regarding claim 14, see comments for claim 5.

Regarding claim 15, see comments for claims 2 and 6.

Regarding claim 16, Spector as disclosed above does not show the outer covering to be removable. Official Notice is taken that it would have been an obvious design choice to have made the outer covering of Spector removable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

Regarding claim 17, see comments for claim 10.

Regarding claim 18, see comments for claims 1, 2 and 6.

Art Unit: 3711

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mizeracki et al, Valles, Pando, Green et al, Clemente and Katz all show various hand gloves or mitts with an outer layer and one or more protective inner layers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul T Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Paul T. Sewell
Supervisory Patent Examiner
Group 3700

MA
8 March 2003